

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JEANETTE RILEY, et al.

(b) County of Residence of First Listed Plaintiff Salt Lake County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

R. Zachary Peter Lowe, Eric W. Hinckley, Lowe Law Group

DEFENDANTS

BENNETT INTERNATIONAL GROUP, LLC, BENNETT TRUCK TRANSPORT, LLC, et al.

County of Residence of First Listed Defendant Salt Lake County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Andrew M. Morse, Scott Young of Snow, Christensen & Martineau

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

wrongful death from motor vehicle accident**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

over \$300K

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/08/2014

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

ANDREW M. MORSE (4498)
R. SCOTT YOUNG (10695)
NATHAN R. SKEEN (12662)
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*Attorneys for Defendants Bennett International Group, LLC,
Bennett Truck Transportation, LLC, Bennett Motor Express, LLC,
and Bennett Motor Express, Inc.*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JEANETTE RILEY, individually, on behalf
of the heirs and as Personal Representative of
the Estate of Stanley Joseph Riley, deceased,

Plaintiff,

vs.

BENNETT INTERNATIONAL GROUP,
LLC, a Georgia limited liability company;
BENNETT TRUCK TRANSPORT, LLC, a
Georgia limited liability company;
BENNETT MOTOR EXPRESS, LLC, a
Georgia limited liability company;
BENNETT MOTOR EXPRESS, INC., a
Georgia corporation; IVAN FENNELL, an
individual; RIO TINTO AMERICA, INC., a
Delaware company; Does I through X, and
Roe Companies XI through XX, inclusive,

Defendants.

NOTICE OF REMOVAL

Civil No.: 2:14-cv-00739-PMW

Judge: Paul M. Warner

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendants Bennett International Group, LLC, Bennett Truck Transport, LLC, Bennett Motor Express, LLC, and Bennett Motor Express, Inc. (collectively “the Bennett Defendants”), by and through their counsel, hereby give NOTICE OF REMOVAL of the civil action pending against them in the Third Judicial District Court in and for Salt Lake County, State of Utah, *Jeanette Riley v. Bennett International Group, LLC, et al.*, Case No. 140906034, to this Court. The grounds for removal are as follows:

1. This action was commenced by the filing of a Complaint in the Third Judicial District in and for Salt Lake County, State of Utah. A copy of the Complaint is attached as Exhibit A. Plaintiff subsequently filed a First Amended Complaint, attached as Exhibit B.
2. The Amended Complaint alleges that Plaintiff Jeanette Riley is a resident of Salt Lake County, Utah. *Id.*
3. The Bennett Defendants are entities that are organized and maintain their principle places of business in the State of Georgia.
4. Defendant Ivan Fennell is a resident of the State of Texas.
5. Defendant Rio Tinto America, Inc. is an entity that is organized in Delaware and maintains its principal place of business in Colorado.
6. The Amended Complaint is filed as a Tier 3 case under Utah Rule of Civil Procedure 26(c)(3), meaning that the amount Plaintiff seeks to recover is in excess of \$300,000, exclusive of costs. *Id.*
7. Based on complete diversity and amount in controversy, this Court has original jurisdiction over the above-entitled action pursuant to 28 U.S.C. § 1332, and this action may be removed to this Court pursuant to 28 U.S.C. § 1441.

8. Removal of this action is timely. Plaintiff did not serve the Complaint on the Bennett Defendants until September 8, 2014. Less than thirty (30) days have elapsed since that time.

9. The other Defendants in this action have not been served. Therefore, their consent is not required for removal. 28 U.S.C. § 1446(b)(2)(A).

10. Written notice of this removal is being served this date on counsel for Plaintiff.

11. A true and correct copy of this Notice of Removal is being filed this date with the Clerk of the Third Judicial District Court, in and for Salt Lake County, State of Utah.

WHEREFORE, Defendants hereby submit notice that the above-entitled matter is removed from the Third Judicial District Court in and for Salt Lake County, State of Utah, to the United States District Court for the State of Utah, Central Division, in accordance with the provisions of 28 U.S.C. § 1446.

DATED this 8th day of October, 2014.

SNOW, CHRISTENSEN & MARTINEAU

/s/ Scott Young

Andrew M. Morse

R. Scott Young

Nathan R. Skeen

Attorneys for Defendants Bennett International Group, LLC, Bennett Truck Transportation, LLC, Bennett Motor Express, LLC, and Bennett Motor Express, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of October, 2014, I electronically filed the foregoing **NOTICE OF REMOVAL** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Zachary Peter Lowe
Eric W. Hinckley
LOWE LAW GROUP
6028 S. Ridgeline Drive
Suite 203
Ogden, UT 84405
Attorneys for Plaintiff

/s/ Kathy Pickett

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